

ORDINANCE _____

AN ORDINANCE relating to floodplain development and environmentally critical areas, amending Sections 25.06.020, 25.06.030, 25.06.040, 25.06.100, 25.06.110, 25.09.015, 25.09.017, 25.09.020, 25.09.045, 25.09.055, 25.09.060, 25.09.120, 25.09.160, 25.09.180, 25.09.200, 25.09.260, 25.09.300, and 25.09.320 of the Seattle Municipal Code to reconcile conflicts and discrepancies between regulations for development in floodplains in Chapter 25.06 and the regulations for flood-prone areas set forth in Chapter 25.09, to clarify language and make minor amendments to the Regulations for Environmentally Critical Areas.

WHEREAS, the City Council has considered the best available science in adopting these amendments;

NOW THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 25.06.020 of the Seattle Municipal Code, which section was adopted by Ordinance 114395, is amended as follows:

25.06.020 Purpose((+))

The purpose of this chapter is to regulate development in areas of special flood hazard in accordance with standards established by the National Flood Insurance Program and the Washington State Department of Ecology and areas identified as flood-prone in Section 25.09.020.B. This chapter is intended to promote the public health, safety and welfare and is not intended to protect or benefit any individual or any class or group of persons specifically, or to create or form the basis for any liability on the part of the City or its officers, employees or agents in connection with administration of this chapter. This chapter shall be administered by affected City departments and interpreted to accomplish its stated purpose.

Section 2. Section 25.06.030 of the Seattle Municipal Code, which section was last amended by Ordinance 121115, is amended as follows:

25.06.030 Definitions((;))

Unless specifically defined below, words or phrases used in this chapter shall be interpreted ~~((so as))~~ to give them the meaning they have in common usage. For purposes of this chapter, the following words or phrases ~~((shall be))~~ are defined as ~~((described))~~ set out below:

* * *

H. "Flood Insurance Rate Map (FIRM)" means the ~~((official map dated May 16, 1995, on which the Federal Insurance Administration))~~ most current map provided by the Federal Emergency Management Agency for administration of the National Flood Insurance Program that has delineated both the areas of special flood hazards and the risk premium zones applicable to The City of Seattle, or as otherwise required by the Department of Homeland Security.

* * *

J. "Floodway" means the channel of a river or other watercourse, ~~((and))~~ the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than ~~((one))~~ 1 foot ~~((+1'))~~, and areas mapped by Seattle Public Utilities.

* * *

Section 3. Section 25.06.040 of the Seattle Municipal Code, which section was adopted by Ordinance 114395, is amended as follows:

25.06.040 Applicability((;))

This chapter shall apply to all areas of special flood hazards within the jurisdiction of The City of Seattle. Portions of this chapter shall also apply to flood-prone areas defined in

subsection 25.09.020.B that are not located within areas of special flood hazards, as provided in
this chapter.

Section 4. Section 25.06.100 of the Seattle Municipal Code, which section was adopted
by Ordinance 114395, is amended as follows:

25.06.100 General standards((;))

In all areas of special flood hazards((;)) and in all other flood-prone areas defined in
subsection 25.09.020.B, the following standards are required:

A. Anchoring((;))

1. All new construction and substantial improvements shall be anchored to
prevent flotation, collapse, or lateral movement of the structure.

2. All manufactured homes ((~~must likewise~~))shall be anchored to prevent
flotation, collapse or lateral movement((;)) and shall be installed using methods and practices
that minimize flood damage.

B. Construction Materials and Methods((;))

1. All new construction and substantial improvements shall be constructed with
materials and utility equipment resistant to flood damage.

2. All new construction and substantial improvements shall be constructed using
methods and practices that minimize flood damage.

3. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and
other service facilities shall be designed and/or otherwise elevated or located ((~~so as~~)) to prevent
water from entering or accumulating within the components during conditions of flooding.

C. Utilities((;))

1 1. All new and replacement water supply systems shall be designed to minimize
2 or eliminate infiltration of floodwaters into the system. ~~((;))~~

3 2. New and replacement sanitary sewage systems shall be designed to minimize
4 or eliminate infiltration of floodwaters into the systems and discharge from the systems into
5 floodwaters. ~~((; and))~~

6 3. On-site waste disposal systems shall be located to avoid impairment to them or
7 contamination from them during flooding.
8

9 D. Subdivision Proposals ~~((;))~~

10 1. All subdivision proposals shall be consistent with the need to minimize flood
11 damage. ~~((;))~~

12 2. All subdivision proposals shall have public utilities and facilities, such as
13 sewer, gas, electrical and water systems, located and constructed to minimize flood damage. ~~((;))~~

14 3. All subdivision proposals shall have adequate drainage ~~((provided))~~ to reduce
15 exposure to flood damage. ~~((; and))~~

16 4. ~~((Where))~~ If base flood elevation data has not been provided or is not available
17 from another authoritative source, the applicant shall provide such data for subdivision proposals
18 and other proposed developments ~~((which))~~ that contain at least ~~((fifty-))~~ 50 ~~((;))~~ lots or five
19 ~~((5))~~ acres, ~~((;))~~ whichever is less ~~((;))~~.
20
21

22 E. ~~((Where))~~ If elevation data is not available either through the Flood Insurance Study or
23 from another authoritative source, proposed construction shall be made reasonably safe from
24 flooding. The evaluation of reasonableness shall include consideration of historical data, high
25 water marks, photographs of past flooding, and similar information ~~((where))~~ if available.
26
27
28

Section 5. Section 25.06.110 of the Seattle Municipal Code, which section was last amended by Ordinance 121828, is amended as follows:

25.06.110 Standards involving base flood elevations((:))

((~~In all areas of special flood hazards w~~))Where base flood elevation data has been provided under Section 25.06.050 or subsection 25.06.090.C ((~~of Section 25.06.090, the following are required:~~)), the standards of Subsections 25.06.110.A through 25.06.110.E apply to areas of special flood hazards and to flood-prone areas defined in subsection 25.09.020.B.

A. Residential Construction((:))

1. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to ((~~two~~))2((:)) feet or more above base flood elevation.

2. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited((:)) or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement ((~~must~~)) either are required to be certified by a registered professional civil engineer or architect or ((~~must~~))are required to meet or exceed the following minimum criteria:

a. A minimum of two ((~~2~~)) openings having a total net area of not less than ((~~one~~))1((:)) square inch for every square foot of enclosed area subject to flooding shall be provided;

b. The bottom of all openings shall be no higher than ((~~one~~))1((:)) foot above grade; and

c. Openings may be equipped with screens, louvers or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

1 B. Nonresidential and Live-work Unit Construction. New construction and substantial
2 improvement of any commercial, industrial or other nonresidential structure, ~~((including a~~
3 ~~structure with one or more live-work units,(()))~~ shall either have the lowest floor, including
4 basement, elevated to ~~((two))~~ 2 feet ~~((2'))~~ or more above the level of the base flood
5 elevation~~((;))~~ or, together with attendant utility and sanitary facilities, shall:

6 1. Be floodproofed so that below ~~((two))~~ 2 feet ~~((2'))~~ above the base flood level
7 the structure is watertight with walls substantially impermeable to the passage of water;

8 2. Have structural components capable of resisting hydrostatic and hydrodynamic
9 loads and effects of buoyancy;

10 3. Be certified by a registered professional civil engineer that the design and
11 methods of construction are in accordance with accepted standards of practice for meeting
12 provisions of this subsection 25.06.110.B based on their development and/or review of the
13 structural design, specifications and plans. Such certifications shall be provided as set forth in
14 subsection 25.06.070.C ~~((of Section 25.06.070))~~.

15 Nonresidential structures or structures with one ~~((1))~~ or more live-work units
16 that are elevated, not floodproofed, ~~((must))~~ shall meet the same standards for space below the
17 lowest floor as described in subsection 25.06.110.A.2 above. ~~((Applicants floodproofing~~
18 ~~nonresidential buildings shall be notified that flood insurance premiums will be based on rates~~
19 ~~that are one foot (1') below the floodproofed level (e.g., a building floodproofed to one foot (1')~~
20 ~~above the base flood level will be rated as at the base flood level).))~~

21 C. Critical Facilities. Construction of new critical facilities shall be located outside the
22 limits of the areas of special flood hazard and outside the limits of all other flood-prone areas as
23 defined in Chapter 25.09 where possible. Construction of new critical facilities shall be

permissible within areas of special flood hazard and all other flood-prone areas as defined in Chapter 25.09 if no feasible alternative site is available. Critical facilities constructed within areas of special flood hazard and all other flood-prone areas as defined in Chapter 25.09 shall have the lowest floor elevated to ~~((three-))~~3((+)) feet above the level of the base flood elevation at the site. Floodproofing and sealing measures ~~((must))~~shall be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes to all critical facilities shall be elevated to or above the level of the base flood elevation to the extent possible.

D. Manufactured Homes. All manufactured homes within Zones A1-30, AH, and AE on the FIRM or within all other flood-prone areas as defined in Chapter 25.09 shall be elevated on a permanent foundation so that the lowest floor of the manufactured home is ~~((two-))~~2((+)) feet or more above the base flood elevation~~((;))~~ and shall be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 25.06.100.A.

E. Recreational Vehicles. Recreational vehicles placed on sites within areas of special flood hazard shall ~~((either))~~be:

~~((1- be e))~~1. On the site for fewer than ~~((one hundred eighty-))~~180((+)) consecutive days;

~~((2- be f))~~2. Fully licensed and ready for highway use, on their wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and be without permanently attached additions; or

~~((3- m))~~3. Meet the requirements for manufactured homes specified in Subsection 25.06.110.D, above.

Section 6. Section 25.09.015 of the Seattle Municipal Code, which section was last amended by the ordinance introduced as CB 117585, is amended as follows:

25.09.015 Application of chapter((,))

A. This Chapter 25.09 applies to any development, as defined in Section 25.09.520, or platting carried out by any person on publicly or privately owned ~~((parcels))~~property containing an environmentally critical area or buffer, except that:

1. ~~((Parcels))~~Property that ~~((are))~~is solely within seismic or volcanic hazard~~((s))~~ areas, as defined in subsections 25.09.020.A.6 and 25.09.020.A.7, and that ~~((are))~~is not within liquefaction-prone areas ~~((are))~~is subject only to Section~~((s))~~ 25.09.010, subsections A, B,C and F of Section 25.09.017, and Sections 25.09.020 and 25.09.030; and

2. For ~~((parcels))~~property, including submerged land, that ~~((are))~~is in the Shoreline District as described in Section 23.60A.010, this chapter 25.09 as incorporated by reference into Section 23.60A.156 applies to development and shoreline modifications, as defined in Chapter 23.60A, uses, platting and actions described in subsection 25.09.015.C.

B. This Chapter 25.09 applies to altering vegetation, trees, or habitat carried out by any person in landslide-prone critical areas (including steep slopes), steep slope buffers, riparian corridors, wetlands, and wetland buffers on publicly or privately owned ~~((parcels))~~property, except for ~~((parcels))~~property, including submerged land, in the Shoreline District, where such actions shall comply with Section 23.60A.190.

* * *

Section 7. Section 25.09.017 of the Seattle Municipal Code, which section was last amended by Ordinance 122050, is amended as follows:

25.09.017 Administration((,))

A. The Director shall administer and interpret the provisions of this ~~((e))~~Chapter 25.09, except as specifically provided.

B. The Director shall determine whether development, platting, or alteration of vegetation, trees, or habitat is subject to this ((e))Chapter 25.09. The Director may also consult with other City departments and state and federal agencies as necessary to obtain additional technical and environmental review assistance.

C. Applications for permits or approvals

1. The Director shall review and analyze all applications for all permits or approvals subject to this chapter that are issued by the Department of Planning and Development. Such applications shall be approved only after the Director is satisfied the applications comply with this chapter.

2. Except as provided in subsection 25.09.017.C.1, City Departments with management authority over specific property, including but not limited to Seattle Department of Transportation and Seattle Department of Parks and Recreation, are responsible for administration of this Chapter 25.09 within the City right-of-way or other City property owned or controlled by that Department.

* * *

Section 8. Section 25.09.020 of the Seattle Municipal Code, which section was last amended by the ordinance introduced as CB 117585, is amended as follows:

25.09.020 Environmentally critical areas definitions((.))

The following are environmentally critical areas designated by this chapter: geologic hazard areas, steep slope areas, flood-prone areas, wetlands, fish and wildlife habitat conservation areas, and abandoned landfills.

* * *

1 B. Flood-prone Areas. Flood-prone areas are those areas that would likely be covered
2 with or carry water as a result of a ~~((one hundred-))~~100((+)) year flood event, or that would have
3 a one percent ~~((1%))~~ or greater chance of being covered with or of carrying water in any given
4 year based on current circumstances or maximum development permitted under existing zoning.
5 This includes areas identified as ~~((flood-prone on the Seattle Floodplain Development Ordinance~~
6 ~~or on FEMA maps, and streams identified by the Washington State Department of Fisheries~~
7 ~~Catalog of Washington Streams,))~~ areas of special flood hazard in Section 25.06.030 and areas
8 ~~((with stormwater runoff problems known to Seattle Public Utilities))~~ mapped by Seattle Public
9 Utilities.
10

11 C. Wetlands. Wetlands are those areas that are inundated or saturated by surface water or
12 ground water at a frequency and duration sufficient to support, and that under normal
13 circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil
14 conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do
15 not include those artificial wetlands intentionally created from nonwetland sites, including, but
16 not limited to, irrigation and stormwater ditches, grass-lined swales, canals, detention facilities,
17 wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created
18 after July 1, 1990, that were unintentionally created as a result of the construction of a road,
19 street, or highway. Wetlands include those artificial wetlands intentionally created from
20 nonwetland areas to mitigate conversion of wetlands. ~~((The method for delineating wetlands~~
21 ~~shall follow the "Washington State Wetlands Identification and Delineation Manual" as adopted~~
22 ~~by the State Department of Ecology (Publication #96-94.))~~ Identification of wetlands and
23 delineation of their boundaries pursuant to this Chapter 25.09 shall be done in accordance with
24 the approved federal wetland delineation manual and applicable regional supplements.
25
26
27
28

* * *

Section 9. Section 25.09.045 of the Seattle Municipal Code, which section was last amended by the ordinance introduced as CB 117585, is amended as follows:

25.09.045 Exemptions((.))

* * *

G. Rebuilding or replacing structures that are destroyed by an act of nature is exempt from the provisions of this chapter, provided that action toward the rebuilding or replacement is commenced within one ~~((+))~~ year of the act of nature, that the rebuilding or replacement is diligently pursued, and that the new construction or related activity does not further encroach into, or increase the impact to, or further alter an environmentally critical area or buffer and complies with ~~((restrictions on flood hazard areas reconstruction))~~ applicable requirements of Chapter 25.06, Floodplain Development.

H.

1. The activities identified in subsection 25.09.045.H.3 below are exempt from the provisions of this ~~((e))~~ Chapter 25.09 ~~((when))~~ if the applicant demonstrates:

- a. The work is not a prerequisite to other development;
- b. No practicable alternative to the work with less impact on the environmentally critical area or buffer exists; and
- c. The work does not pose an unreasonable threat to the public health, safety or welfare, or to the environment, on or off the ~~((parcel))~~ property.

2. The Director's decision shall:

- a. include the approved location and limits of the work; and

b. require specific mitigation measures for impacts to all environmentally critical areas and their buffers before, during, and after construction; and

c. require special inspection at the Director's discretion.

3. The provisions of this subsection 25.09.045.H apply to the following activities:

a. Relocation of electric facilities, lines, equipment or appurtenances, not including substations, with an associated voltage of 55,000 volts or less only when required by a governmental agency((;));

b. Relocation of natural gas, cable communications, gas, telephone facilities, and public utility lines, pipes, mains, equipment or appurtenances only when required by a governmental agency((;));

c. Installation or construction in improved public road rights-of-way, and replacement, operation or alteration, of all electric facilities, lines, equipment or appurtenances, not including substations, with an associated voltage of 55,000 volts or less((;));

d. Installation or construction in improved public road rights-of-way, and replacement, operation, repair or alteration of all natural gas, cable communications, telephone facilities, and public utility lines, pipes, mains, equipment or appurtenances((;));

e. Public or private projects designed exclusively to enhance ecological function in the Shoreline District or to enhance riparian corridors, and wetlands and their buffers, including stormwater-related functions, that require either a Hydraulic Project Approval from the Washington Department of Fish and Wildlife or a Section 404 permit under the federal Clean Water Act from the United States Army Corps of Engineers, or any project funded by the Aquatic Habitat Matching Grant program, established by City Council Resolution 30719, and

1 f. Public projects (~~where~~)if the intrusion into the environmentally critical
2 area or buffer benefits the public, such as trails providing access to a creek or wetland area, when
3 located and designed to keep environmental disturbance to a minimum. The applicant shall
4 protect vegetation and trees pursuant to a tree and vegetation plan consistent with best
5 management practices. The plan shall be prepared by a qualified expert with experience related
6 to the type of environmentally critical area or buffer where work will occur. In landslide-prone
7 areas of the plan shall also be approved by a geotechnical engineer or geologist licensed in the
8 State of Washington with experience in analyzing geological hazards related to slope stability
9 and vegetation removal on steep slopes.
10

11 * * *

12 K. Site investigative work. Minor site investigative work, such as surveys, soil logs,
13 percolation tests, and other related activities, if such activities are limited to grading that is
14 exempt under the Grading Code, Chapter 22.170. In every case, impacts to the environmentally
15 critical area shall be minimized, and disturbed areas shall be immediately restored.
16
17

18 Section 10. Section 25.09.055 of the Seattle Municipal Code, which section was last
19 amended by Ordinance 122738, is amended as follows:
20

21 **25.09.055 Small project waiver((:))**

22 A. The Director may approve new accessory structures or additions to existing structures
23 in the environmentally critical areas and buffers listed in subsection 25.09.055.A.2, provided that
24 no construction occurs over or in a water course, water body, or wetland, when the applicant
25 demonstrates the proposal meets the following criteria:
26
27
28

1 1. The new accessory structure or addition to an existing structure is on a lot that
2 has been in existence as a legal building site prior to October 31, 1992.

3 2. The development does not exceed ~~((one hundred and fifty ()))~~150((+)) square
4 feet in riparian management areas or in wetland buffers, ~~((three hundred ()))~~300((+)) square feet in
5 steep slope areas or buffers, or ~~((seven hundred fifty ()))~~750((+)) square feet in landslide-prone
6 (except steep slope)~~((, liquefaction prone, flood prone, and abandoned land fill))~~ areas, all
7 calculated cumulatively from October 31, 1992. When the new accessory structure or addition to
8 an existing structure is on a lot that is or has been held in common ownership with a contiguous
9 lot and the lots are or have been used for a single principal use or for a principal use and
10 accessory use, the limitation applies to the entire site.

11
12 3. It is not possible to build the accessory structure or addition to an existing
13 structure for the intended purpose out of the environmentally critical area or buffer.

14
15 4. The location of the accessory structure or addition to an existing structure keeps
16 impact on the environmentally critical area and buffer to a minimum.

17 5. In landslide-prone areas the Director may require a soils report prepared by a
18 qualified geotechnical engineer or geologist licensed by the State of Washington demonstrates
19 that it is safe to construct the new accessory structure or the addition to an existing structure.

20 6. In steep slope areas or buffers, and in all other landslide-prone areas, the new
21 accessory structure or addition to an existing structure subject to waiver under this Section
22 25.09.055 shall not include retaining walls or drainage features.

23
24 B. Director's Decision.
25
26
27
28

1 1. The Director shall require the use of fencing with a highly durable protective
2 barrier during the construction to protect the remainder of the environmentally critical area
3 and/or buffer.

4 2. The Director shall require planting native vegetation in an area equal in size to
5 the area of any native vegetation in a riparian corridor, wetland buffer, steep slope, or steep slope
6 buffer that is removed or adversely impacted by the development. Any invasive species shall be
7 removed from the planting area. The planting area shall be on site and, whenever possible, in the
8 same environmentally critical area or buffer. When this is not possible, the Director (~~((may))~~)shall
9 authorize all or a portion of the planting to be outside the environmentally critical area or buffer
10 or on another parcel, when the Director determines this will mitigate the impact.

11 3. The Director (~~((may))~~)shall require additional measures to protect the remainder
12 of the environmentally critical area and/or buffer.

13 Section 11. Section 25.09.060 of the Seattle Municipal Code, which section was last
14 amended by Ordinance 123106, is amended as follows:

15 **25.09.060 General development standards**

16 The following general development standards apply to development on parcels
17 containing environmentally critical areas or their buffers, except as specifically provided in this
18 chapter:

19 * * *

20 E. All site clearing on the lot that may impact environmentally critical areas or buffers
21 shall be carried out in stages just prior to construction, and cleared areas shall be kept to the
22 minimum for construction. Revegetation shall occur after the particular phase of construction is
23 completed. When required by the Director, a tree and revegetation plan shall establish a staged
24

vegetation removal and replacement program that keeps the amount of exposed soil during and after construction to a minimum. In ~~((drier))~~ drier months, temporary surface irrigation or temporary installation of intermediate plantings may be required until weather or seasonal conditions permit installation of the permanent plantings.

* * *

Section 12. Section 25.09.120 of the Seattle Municipal Code, which section was last amended by Ordinance 123106, is amended as follows:

25.09.120 Development standards for flood-prone areas

~~((A. Development is prohibited within the "floodway" of flood-prone areas. Permitted development within flood-prone areas lying outside the floodway shall not contribute to increased downstream flow of floodwaters and shall comply with the provisions of Chapter 25.06, Seattle Floodplain Development Ordinance.~~

~~B. Drainage Control Plan. If the site is mapped or determined to be flood-prone, the Director may require a drainage control plan to be submitted with the permit application showing the flood-prone area, the tributary watershed, and all drainage features, to describe the existing situation and proposed modifications to the drainage system. If required, the drainage control plan shall provide for control of water quality and quantity in compliance with Chapters 22.800 through 22.808, the Stormwater Code, Chapter 25.06, Seattle Floodplain Development Ordinance, and any other subsequent applicable flood control codes or ordinances to protect the public interest and prevent harm.~~

~~C. Elevation Above Base Flood Level. The lowest floor elevation of any structure located in a flood-prone area shall be no less than two feet (2') above the one hundred (100)-year flood elevation.))~~

All development shall meet the applicable requirements of SMC Chapter 25.06, Seattle Floodplain Development Ordinance; SMC Chapter 22.100, Seattle Building Code; SMC Chapter 22.150, Seattle Residential Code; SMC Chapter 22.170, Seattle Grading Code; and SMC Chapter 22.800, Seattle Stormwater Code.

Section 13. Section 25.09.160 of the Seattle Municipal Code, which section was last amended by Ordinance 123106, is amended as follows:

25.09.160 Development standards for wetlands

A. Wetlands are rated according to the Washington State Wetland Rating System for Western Washington (Ecology Publication #04-06-25). Illegal grading, filling, draining, or other development will not result in a change to that wetland's rating. Wetlands constructed for mitigation or replacement purposes are subject to the provisions of this chapter.

B. Impacts to Wetlands.

1. Development, including but not limited to grading, filling, or draining, is prohibited within or over:

a. Category I, II or III wetlands greater than ~~((one hundred-))~~100(~~(+))~~) square feet;

b. Category IV wetlands ~~((one thousand-))~~1,000(~~(+))~~) square feet or greater;

c. A wetland of any category or size that is part of a larger wetland system or abuts any Type 1-5 water.

2. Development may occur within or over Category IV wetlands less than ~~((one thousand-))~~1,000(~~(+))~~) square feet, other than those wetlands described in subsection 25.09.160.B.1.c, in accordance with subsection 25.09.160.C.3.

3. When development is authorized on a parcel containing a wetland:

a. ~~((All on or offsite runoff shall be routed away from the wetland and wetland buffer))~~ Development shall comply with Section 25.805.020.G; and

b. Direct lighting shall be directed away from the wetland and its buffer.

4. ~~((Removal of, clearing, or))~~ In a wetland of any category or size, any action detrimental to habitat, trees or vegetation ((in wetlands)), including but not limited to clearing or removal, is prohibited, except as provided Sections 23.60A.190, 25.09.045, 25.09.300, and 25.09.320.

C. Wetland Buffers and Mitigation.

* * *

4. Buffer Vegetation.

a. In the wetland buffer, ((Removal of, clearing, or))any action detrimental to habitat, trees or vegetation ~~((in wetlands))~~, including but not limited to clearing or removal, is prohibited, except as provided in subsection 25.09.160.D and in Sections 23.60A.190, 25.09.055, 25.09.300, and ((Section)) 25.09.320.

b. Invasive plants and noxious weeds may be removed by hand. No machines or chemical removal shall be permitted without the Director's approval.

* * *

E. Avoidance and Mitigation Standards.

1. If an exception to the standards of this Section 25.09.160 is approved under Section 25.09.300, the Director shall require application of the following ((The))standards for wetland mitigation ((shall be applied)) in following order of priority:

a. avoid the impact to the extent practicable by not taking all or part of an action;

b. keep the impact to a minimum by limiting the degree or magnitude of the action and its implementation, and by taking affirmative actions to mitigate the impact over time; and

c. mitigate unavoidable impacts to the designated uses of a wetland by replacement, enhancement, or other approved compensation methods.

2. Mitigation for grading, filling, or draining wetlands shall achieve the equivalent or better biologic functions of the existing wetland. Mitigation plans shall be consistent with ~~((the Department of Ecology Guidelines for Developing Freshwater Wetlands Mitigation Plans and Proposals, 1994 (#94-29)))~~ Washington State Department of Ecology Publication #06-06-011b, Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans (Version 1), or the most current Department of Ecology publication addressing wetland mitigation.

* * *

6. If the applicant demonstrates by clear and convincing evidence that the avoidance and mitigation standards required in subsection 25.09.160.E.5.a will deprive the applicant of reasonable use of the applicant's property, the Director may waive or modify the standards to the extent necessary to allow reasonable use. Notwithstanding such demonstration, the Director may deny the waiver if the Director determines that not applying these standards would cause significant injury to occupiers of the land, to other properties, to public resources, or to the environment.

* * *

Section 14. Section 25.09.180 of the Seattle Municipal Code, which section was last amended by Ordinance 123106, is amended as follows:

25.09.180 Development standards for steep slope areas

A. This ((§))Section 25.09.180 and Section 25.09.080 apply to parcels containing a steep slope area or buffer.

B. Impacts on Steep Slope Areas.

1. Development is prohibited on steep slope areas, unless the applicant demonstrates that the provisions of subsections 25.09.180.B.2 or 25.09.180.E apply.

2. Provided that all the provisions of this Chapter and all applicable provisions of Title 23 and Chapters 22.800 through 22.808 are met, subsection 25.09.180.B.1 does not apply when the applicant demonstrates the development meets one of the following criteria. In determining whether these criteria are met, the Director may require a geotechnical report to verify site conditions and to evaluate the impacts of the development in the steep slope area and shall require such a report for criteria in subsections 25.09.180.B.2.c and 25.09.180.B.2.d. The geotechnical report is subject to the provisions for third party review in Section 25.09.080.C.

a. Development is located where existing development is located, if the impact on the steep slope area is not altered or increased; or

b. Development is located on steep slope areas that have been created through previous legal grading activities, including rockeries or retaining walls resulting from rights of way improvements, if no adverse impact on the steep slope area will result; or

c. Development is located on steep slope areas that are less than 20 feet in vertical rise and that are 30 feet or more from other steep slope areas, if no adverse impact on the steep slope area will result; or

d. Development is located on steep slope areas where the Director determines that application of subsection 25.09.180.B.1 would prevent necessary stabilization of a landslide-prone area.

3. Clearing vegetation and replacing with new vegetation or any type of vegetation and site restoration management does not qualify as development for purposes of applying any of the provisions of subsection 25.09.180.B.2.

* * *

Section 15. Section 25.09.200 of the Seattle Municipal Code, which section was last amended by the ordinance introduced as CB 117585, is amended as follows:

25.09.200 Development standards for fish and wildlife habitat conservation areas

A. Development standards for parcels with riparian corridors.

1.

a. The provisions of this subsection A apply to all development on parcels containing riparian corridors as defined in Section 25.09.020 D5. In addition, the provisions of subsection 25.09.200.C apply to these parcels, except subsection C.2 with respect to fish. In the event of an irreconcilable conflict between the provisions of subsection 25.09.200.C and this section, the most restrictive provision applies.

b. It is the long term goal of the City to restore the City's riparian corridors and to protect salmon passage in such corridors where scientifically justified. The City has determined that best available science supports protecting these riparian corridors as described in this chapter. Where past development has encroached into riparian corridors, redevelopment shall be regulated subject to the provisions in Section 25.09.045.

2. Riparian Watercourse

1 a. Development is prohibited within or over the watercourse, except as
2 provided in subsection 25.09.200.A.2.b. If no other access is available to the property, the
3 Director may approve access over the watercourse, provided that it maintains the natural channel
4 and floodway of the watercourse and that disturbance of the riparian management area is kept to
5 a minimum.

6 b. On Haller and Bitter Lakes, piers are regulated pursuant to the
7 development standards for similar structures in the Seattle Shoreline Master Program, Chapter
8 23.60A, Part ((X)) VI, The Urban Residential Environment. If a pier is allowed, access to it
9 through the riparian management area is also allowed, provided the impact on the naturally
10 functioning condition of the riparian management area from the pier's location, method of
11 construction, and construction materials is kept to a minimum.

12 c. In the riparian watercourse, ((Removal of, clearing, or))any action
13 detrimental to habitat, trees or vegetation ((in the riparian watercourse)), including but not
14 limited to clearing or removal, is prohibited, except as provided in Section 25.09.320.

15
16
17 3. Riparian Management Area((:))

18 a. The riparian management area is defined in subsection 25.09.020-D.5.
19 Existing public or private streets are excluded from the regulations for the riparian management
20 area, provided that if the provisions of Chapters 22.800 through 22.808, the Stormwater Code
21 apply, the Director shall require adequate stormwater detention to prevent harm from the street to
22 habitat on the parcel and downstream and to keep degradation of water quality for habitat to a
23 minimum.

24 b. Activities in the riparian management area.

1) Development is prohibited in the riparian management area, except to provide access to development approved under subsection 25.09.200.A.2 and except under subsections 22.09.200.A.3.b.2, 25.09.200.A.3.c, and 25.09.200.A.3.d.

2) In the riparian management area, ((Removal of, clearing, or)) any action detrimental to habitat, trees or vegetation ((in the riparian management area)), including but not limited to clearing or removal, is prohibited, except as provided in subsection 25.09.200.A.3.c and Section 25.09.320.

* * *

Section 16. Section 25.09.260 of the Seattle Municipal Code, which section was last amended by the ordinance introduced as CB 117585, is amended as follows:

25.09.260 Environmentally critical areas administrative conditional use

A. ((When the)) Application procedure.

1. An application for an environmentally critical areas conditional use may be submitted under the following circumstances:

a. If an applicant demonstrates it is not practicable to comply with the requirements of subsection 25.09.240.B considering the parcel as a whole, the applicant may apply for an administrative conditional use permit, authorized under Section 23.42.042, under this Section 25.09.260 to allow the Director to count environmentally critical areas and their buffers that would otherwise be excluded in calculating the maximum number of lots and units allowed on the parcel under subsection 25.09.240.E.

b. An applicant may also apply for an administrative conditional use permit to allow the Director to approve smaller than required lot sizes and yards, and/or more than one dwelling unit per lot.

2. If an administrative conditional use application includes an application to authorize development in a critical area or buffer, then the application is not required to include any of the variance applications allowed under subsection 25.09.180.E or 25.09.280.

B. Standards. The ~~((Director may approve an administrative conditional use for smaller than required lot sizes and yards, and/or more than one dwelling unit per lot if the))~~ applicant shall demonstrate~~((s))~~ that the proposal meets the following ~~((standards))~~:

1. Environmental impacts on critical areas

- a. No development is in a riparian corridor, wetland, or wetland buffer.
- b. No riparian management area, shoreline habitat buffer, or wetland buffer is reduced.
- c. No development is on a steep slope area or its buffer unless the property being divided or, if no property is being divided, the property that is the subject of the administrative conditional use permit is predominantly characterized by steep slope areas, or unless approved by the Director under ~~((S))~~subsections 25.09.180.B.2.a, b, or c.

~~((f))~~1) The preference is to cluster units away from steep slope areas and buffers.

~~((f))~~2) The Director shall require clear and convincing evidence that the provisions of this subsection 25.09.260.B are met if units are clustered on steep slope areas and steep slope area buffers with these characteristics:

* * *

C. Conditions~~((:))~~

1. In authorizing an administrative conditional use, the Director ~~((may))~~shall mitigate adverse negative impacts by imposing requirements and conditions necessary to protect

1 riparian corridors, wetlands and their buffers, (~~((shoreline habitats and their buffers,))~~) and steep
2 slope areas and their buffers, and may impose additional conditions to protect other properties in
3 the zone or vicinity in which the property is located.

4 2. In addition to any conditions imposed under subsection 25.09.260.C.1, the
5 following conditions apply to all administrative conditional uses approved under this subsection:

6 a. Replacement and establishment of native vegetation shall be required
7 where it is not possible to save trees or vegetation.
8

9 b. Where new lots are created, the following standards apply: (~~((provisions~~
10 ~~of Section 23.22.062, Unit lot subdivisions, or Section 23.24.045, Unit lot subdivisions, apply,~~
11 ~~regardless of whether the proposal is a unit lot subdivision, so that subsequent development on a~~
12 ~~single lot does not result in the development standards of this chapter being exceeded for the~~
13 ~~short subdivision or subdivision as a whole.))~~)

14
15 1) The development as a whole shall meet development
16 standards under Title 23 and this Chapter 25.09 applicable at the time the application is vested.

17 2) If new lots are created under Sections 25.09.240 and
18 25.09.260, development on individual lots may be nonconforming as to some or all of the
19 development standards, except that private usable open space or private amenity areas for each
20 dwelling unit shall be provided on the same lot as the dwelling unit it serves.

21
22 3) Subsequent platting actions or additions or
23 modifications to structures may not create or increase any nonconformity of the development as
24 a whole to this Chapter 25.09 and shall be noted on the document creating the new lots that is
25 recorded with the Director of the King County Department of Records and Elections.
26
27
28

4) Access easements and joint use and maintenance

agreements shall be executed for use of common garage or parking areas, common open space, and other similar features and be recorded with the Director of the King County Department of Records and Elections.

5) The plat documents, as recorded with the Director of the

King County Department of Records and Elections, shall include a notation that each lot approved by an environmentally critical areas conditional use permit is not a separate buildable lot, and that additional development of the each individual lot may be limited as a result of the application of development standards to the original lot.

* * *

Section 17. Section 25.09.300 of the Seattle Municipal Code, which section was last amended by Ordinance 122050, is amended as follows:

25.09.300 Environmentally critical area exception((:))

A. Types of Exceptions

1. General. An applicant for a City permit to develop real property that is located in an environmentally critical area or buffer may apply to the Director for an exception to modify environmentally critical area development standards, provided that an exception cannot be applied for to allow development or to obtain development credit under subsection 25.09.240, E or to relocate lot lines under Section 23.28.030. Before an application for relief under this section will be accepted, the Director must determine that no other applicable administrative remedies in Chapter 25.09 or Title 23 will provide sufficient relief.

2. Public projects. If development in an environmentally critical area or buffer is necessary to accommodate a public facility or public utility, the public facility or public utility

may be permitted according to the following criteria in lieu of subsections 25.09.300.C and

25.09.300.D:

a. No reasonable alternative location will accommodate the facility or utility, as demonstrated by an analysis of appropriate alternative location(s) provided by the applicant or the Director;

b. The facility or utility is located, designed, and constructed avoid adverse impacts to the extent feasible by not taking all or part of an action, to minimize adverse impacts, and to mitigate impacts to critical area disturbance to the maximum extent feasible;

c. All requirements of subsections 25.09.300.A.1, 25.09.300.B, 25.09.300.E, and 25.09.300.F apply; and

d. In granting an exception to the development standards in Section 25.09.160, Wetlands, the Director shall apply the avoidance and mitigation standards in subsection 25.09.160.E when imposing any conditions.

* * *

Section 18. Section 25.09.320 of the Seattle Municipal Code, which section was last amended by Ordinance 122050, is amended as follows:

25.09.320 Trees and vegetation((~))

A.

1. ~~((Removing, clearing, or a))~~Any action detrimental to habitat, vegetation or trees, including but not limited to clearing or removal, is prohibited, except as provided below, within the following areas: landslide-prone critical areas, (including steep slopes), steep slope buffers, riparian corridors, wetlands, and wetland buffers.

* * *

Section 19. Section 25.09.520 of the Seattle Municipal Code, which section was last amended by the ordinance introduced as CB 117585, is amended as follows:

25.09.520 Definitions((;))

* * *

"Provisions of this chapter" means all sections of this chapter.

"Reasonable alternative location" means a location that can accommodate the proposal's objectives at the lowest level of impact to ecological function in consideration of the environmental, social and economic impacts on the public and the cost to the applicant.

"Retaining structure" means any improvement built up or composed of parts joined together in some definite manner and affixed to the ground for the purposes of retaining earth or rocks, including but not limited to concrete retaining walls, mechanically stabilized earth systems, soil nails, terracing, or flower bed frames.

* * *

Section 20. A. This ordinance, except for Sections 6, 8, 9, 15, 16 and 19, shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

B. Sections 6, 8, 9, 15, 16 and 19 of this ordinance, shall take effect and be in force on the later of: the date immediately after the effective date of the ordinance introduced as CB 117585 or 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

1 Passed by the City Council the ____ day of _____, 2012, and
2 signed by me in open session in authentication of its passage this
3 ____ day of _____, 2012.

4
5 _____
6 President _____ of the City Council
7
8

9 Approved by me this ____ day of _____, 2012.
10
11

12 _____
13 Michael McGinn, Mayor
14

15 Filed by me this ____ day of _____, 2012.
16
17

18 _____
19 Monica Martinez Simmons, City Clerk
20

21 (Seal)
22
23
24
25
26
27
28